

GENERAL MANAGEMENT ASSISTANCE CONTRACT (GMAC)
Contract No: 674-C-00-01-10051-00

ASSESSING PROGRESS IN HOUSING POLICY ACHIEVEMENT

Prepared by

Dr Charlene Lea

January 2003

This report was prepared under Mega-Tech, Inc.'s prime contract with USAID and addresses USAID/South Africa's Strategic Objective No. 6: Increased Access to Shelter and Environmentally Sound Municipal Services

Please direct all queries regarding this report to:

Mega-Tech/South Africa
General Management Assistance Contract Office
4th Floor
Provisus Building
523 Church Street
Arcadia 0083 Pretoria
South Africa
Tel. (012) 341-7966
Fax (012) 341-7968
Email megatech@intekom.co.za

Or

Mega-Tech, Inc.
180 South Washington Street, Suite 200
Falls Church, VA 22046
Tel. (703) 534-1629
Fax (703) 534-7208
Email info@mgtech-world.com

Abstract

The housing policy that currently governs housing delivery is no longer applicable. The housing environment has undergone a significant shift and the policy needs to be addressed to reflect the changes. The policy instituted in 1994, which has had several amendments over the years, remains the cornerstone of the housing delivery strategy, however, the policy that was relevant in 1994 is no longer relevant in 2003. The existing policy deals with the environment holistically as “lower income” – but it now requires stratification in terms of deliverables and not by market segment. In spite of this, there has been housing delivery – primarily through private sector and NGO initiatives. Nevertheless, programmes and initiatives that have potential remain insufficiently effective because of capacity issues. The delivery environment is fragmented, and lacks cohesive leadership. Housing finance programmes will not produce delivery at scale unless the entire housing environment is normalised. HIV and Aids remain a spoken about but insufficiently addressed problem in policy terms. The policy must enable delivery in the required segments.

The focus going forward should therefore be on specific constraints, i.e.

- urban renewal
- informal settlements
- establishments of a secondary housing market
- rental housing

with HIV and Aids are germane to all these areas.

¹1. Introduction

1.1 Objectives and Tasks

The goal of this study is to assist SO6 to attain its strategic objective of improving access to housing and environmental urban services for South Africa's historically disadvantaged population.

The objective of this study is to evaluate progress achieved to date in South Africa in addressing housing and municipal infrastructure constraints and to update the Constraints Mitigation Index (CMI) prepared in 1998 for the delivery of housing and municipal infrastructure.

This report builds on the 1998 document, 'Indicators for Assessing Progress in Housing and Urban Development Policy Achievements in South Africa'. In addition to preparing an index through which progress with housing and municipal infrastructure was assessed, the report contained projections concerning policy achievements up until the end of 2002.

The purpose of this study is to:

- assess the projections contained in the 2002 document and to identify constraints or factors that either diminished or enhanced policy achievements;
- identify and review recent policy changes;
- identify and assess other constraints such as HIV/AIDS that have not hitherto formed part of the policy environment;
- update delivery information.

1.2 Approach and Structure

The report is based on the 1998 document; on policy and policy discussion documents emanating from, or prepared for, government; other papers, for example, documents prepared for the National Housing Finance Corporation; and discussions with officials and informed individuals in the private sector and in NGOs. The individuals and institutions visited are listed in Annexure 1.

The report contains:

1. A brief description of the 1998 document, with a focus on the key constraints that were identified at the time;
2. The identification and evaluation of policy changes and other factors that have hindered or promoted policy achievement;

¹ Version: 26November 6.20 p.m.

3. Data pertaining to the delivery of housing and municipal infrastructure between 1998 and 2000;
4. An assessment of the projections to 2002;
5. Concluding comments on future policy alternatives and debates.

2. Building on the 1998 Assessment

2.1 Objective, Methodology and Output in 1998

The objective of the 1998 document was to

Work with SO6 and other relevant stakeholders in order to develop an instrument to measure the degree to which the South African Government, in particular the Ministry of Housing and the Ministry for Provincial Affairs and Constitutional Development [now the Ministry of Provincial and Local Government], have attained their objectives in respect of effective governance and service delivery. (p. 12)

The method entailed:

- determining the constraints confronted by the newly elected democratic government in 1994 in respect of housing and service delivery;
- assigning priorities to each constraint;
- identifying the range of policies, legislative initiatives, institutional initiatives and administrative practices which, by mid 1998, had been formulated to address the constraints;
- assessing the effectiveness of these constraints in remedying policy constraints in terms of the four criteria note below;
- constructing a CMI intended to evaluate whether the initiative effectively addressed the constraints; and
- projecting to 2000 the anticipated effectiveness of the initiatives.

Four outputs (sets of tables), with related broader discussion, emerged from the methodology.

a. Identification of policy constraints

The first table had three columns: policy constraint – priority – rationale. Each constraint was allocated a priority and the priorities were ranked on a scale of 1 – ‘comparatively unimportant’ to 4 – ‘very important’ and a rationale was provided for the ranking. For example, the lack of a policy framework in 1994 for service delivery was identified as a constraint and was ranked as 4, very important. In contrast, an uncompetitive housing supply industry was ranked 2 as the ‘industry is not unduly stressed by price gouging’.

b. Identification of initiatives addressing each constraint

The second table was a matrix containing policy constraints on the vertical axis and initiatives on the horizontal axis. Since most initiatives addressed more than one constraint, the body of the matrix made the connections between constraints and initiatives.

c. Review of the effectiveness of the interventions

The third table comprised a review of the initiatives intended to address a particular constraint. The evaluation was based on the following criteria:

- whether the initiative addressed the key policy issues necessary to mitigate the constraints;
- if the resources were adequate to mitigate the constraints;
- if the institutional arrangements addressed the constraint; and
- if the initiatives were met by stakeholder acceptance.

For each criterion the evaluation was based on a four point scale, with a value of 1 indicating that the initiative did not address the constraint, 2 indicating that the constraint was addressed 'somewhat', 3 that the constraint was addressed 'considerably', and 4 that the constraints was addressed 'largely'. (Inevitably, though, the consulting team ended up using 3.5, 2.5 and so on.)

For example, in 1998 the index of performance interventions addressing the housing policy framework was 2.63. This figure was arrived at by assessing the effectiveness of initiatives in terms of the four criteria noted above. For example, the policy impact was assigned a score of 2.5 (addressed the constraint somewhat) and institutional mechanisms a score of 3 (the constraint was addressed considerably). Combining the scores for all four criteria and dividing by 4 led to the score of 2.63. The following table illustrates the point.

| | |
|--------------------------|------|
| Policy impact | 2.5 |
| Resources | 2.5 |
| Institutional mechanisms | 3 |
| Stakeholder acceptance | 2.5 |
| | 2.63 |

d. Constraints mitigation index

The fourth table comprises the CMIs that were constructed for 1994, 1998 and 2000. It is based on the constraint indices noted above, which are subtracted from the perfect score (4) (hence the notion of a 'policy shortfall') and multiplied by the priority assigned to the constraints (hence the notion of 'weighted'). The higher the calculated shortfall, the more serious the constraint is judged to be. For example, in the case of the policy framework constraint, 2.63 was subtracted from 4 and this, when multiplied by the assigned priority weight of 4, produced a shortfall index of 5.48.²

2.2 Methodology in 2000

The final output for the 2000 exercise is the same as that prepared for 1998, the CMI. The methodology used in arriving at the index is simpler. This is because, with a view to maintaining a constant base year against which to assess policy realization, the 1994 policy constraints identified in 1998 remain the same, as do the priorities assigned to each constraint. The same holds true for the policies prepared between 1994 and 1998 and documented in the 1998 exercise.

However, certain new constraints and new policy initiatives and institutions emerged since 1998 and these, together with the priorities assigned to the new constraints, have been added to the respective 1998 housing and municipal services constraints and policy lists.

Once the 2000 housing and municipal services constraints and policy lists were agreed to, the same method was employed as for 1998, namely:

- preparing a new matrix containing policy constraints on the vertical axis and policy and institutional initiatives on the horizontal axis;
- reviewing the effectiveness of the policy initiatives using the 1998 projections to the year 2000 and what actually was achieved, and then projecting to 2002; and
- preparing a revised CMI.

² $(4 - 2.63) \times 4$

2.3 Housing Policy Constraints in 1994

The policy constraints identified for 1994 and the priorities assigned to each constraint are shown in the following table:

2.4 Municipal Services Policy Constraints in 1994

The policy constraints identified for 1994 and the priorities assigned to each constraint are shown in the following table.

| Policy Constraint | Priority |
|---|----------|
| Lack of a <i>policy framework</i> that indicated services backlogs, specified services levels and how the services might be paid for and delivered | 4 |
| Lack of an <i>institutional framework</i> that prescribed the respective roles of government, parastatals, the private sector and NGOs | 3 |
| Lack of a <i>financial framework</i> that prescribed the respective roles of government, parastatals and the private sector and promoted the involvement of banks | 3 |
| Lack of <i>institutional capacity</i> , especially in government | 3 |
| <i>Local government transformation</i> that is exacerbating delivery problems | 3 |
| <i>Technical constraints</i> represented by human resources and the inability to respond effectively | 3 |
| <i>Financial constraints</i> to extending service delivery | 3 |
| <i>Rates and services boycotts</i> that are exacerbating financial constraints | 3 |
| <i>Little competition</i> in the market for service delivery | 3 |
| <i>Apartheid form</i> of cities and towns | 4 |
| <i>Data regarding households</i> | 3 |
| <i>Lack of data</i> regarding local authority operations and finance | 2 |

3. DEVELOPMENTS SINCE 2000

3.1 Housing

The framework of the housing policy remains primarily unaltered. While as in the 2000 assessment, significant work has been done and changes have been made or are in the pipeline, some with potentially far reaching consequences, fundamental problems remain, most of which reside within government structures and within the structure of the policy itself.

3.1.1 Housing Environment

Delivery trend is currently declining. The major banks are not increasing their participation, in part because of the perceived HIV and Aids risk and in part, because only 2% of subsidies are credit linked; large construction companies are withdrawing, primarily because the market is uncompetitive and the margins are low; there is low level of expenditure by provinces, linked to the new procurement regime; the policy and guidelines are lagging behind the availability of funding and are not geared towards a more stratified approach; municipalities with limited capacity need to have a developmental role to become effective.

3.1.2 Policy Constraints

Many of the key strategies included in the 1994 White Paper on Housing are still in effect, i.e. stabilising the housing environment; rationalising institutional capacities; the housing subsidy programme; mobilising credit; supporting the people's housing process; the speedy release and servicing of land and infrastructure service standards and tariffs¹. Subsequent changes and policy statements, including the Housing Code published in 2000, were not determined to be new policy, but rather a confirmation of existing policy.

Piecemeal changes have often resulted in confusion and have impeded housing delivery. For example, changes to legislation concerning housing finance (the Home Loan and Mortgage Disclosure Act ("HAMDA")) failed to deal effectively with Usury Act restrictions. Proposed changes to the Act to facilitate these have become enmeshed in a wider legislative process that has effectively retarded the process.

Clearly, the housing environment has undergone significant change since 1994 and appropriate policy at that time does not necessarily translate into effective policy some ten years later. The status quo is one of the fundamental constraints to housing delivery.

The existing policy has, in fact, run its course and a new strategic direction for housing policy is required. The Department of National Housing is beginning to consult with stakeholders in preparation for a housing summit in 2003 on a future policy and research agenda for housing in South Africa.

¹ Ahmadi Vahwda, Deputy Director General, National Housing

Policy and practice to date has concentrated on market sector and has exhausted possibilities accessible across such a broad base. Strategies for specific arenas of challenge² within the market and income strata are now required. The focus should therefore be on specific constraints rather than market segments, i.e.

- Urban renewal
- Informal settlements
- Establishment of a secondary housing market
- Rental housing

HIV and Aids are germane to all these areas.

By focussing on the individual areas of constraint, the correct strategy and a specific policy that deals with the particular challenge can be devised and implemented.

Therefore, there are several challenges facing housing policy at this time:

- A dysfunctional secondary market
- Constraints in capacity and skills, coupled with inadequate governance structures
- Policy formulation processes within the regions are inadequate and in many instances, absent
- The target market is inadequately understood, primarily because the profile is unknown
- There is a growing backlog of housing delivery
- Subsidy allocation and distribution is impaired
- Government priorities and action lack co-ordination. For meaningful and sustainable housing and housing credit delivery, it is essential that a co-ordinated approach is implemented between government departments
- Land issues remain unresolved.

² Matthew Nell, Housing and Development Specialist

3.1.3 New Initiatives

Marulelo Housing Association

The Marulelo Housing Association is in the process of being established as a Section 21 company as part of a programme to dispose of vacant properties through instalment sales to newly qualifying buyers, using the institutional subsidy. This programme has been in planning for some time as a partial solution to sectors of the right-sizing programme. Marulelo will purchase vacant properties from the lenders and hold them for purposes of rental and ultimate sale to beneficiaries. Institutional subsidies will be drawn down. If borrower willingness and ability to pay have been established during the rental period, housing credit will be made available.

This initiative seeks to normalise housing in an environment recognised for its default record. It hopes to make housing affordable and give access to subsidies.

Community Reinvestment (Housing) Bill (“CRA”)

The purpose of this Bill is to increase the volume of lending into the lower income housing market with a specific bias towards measuring housing lending performance and with an emphasis on housing finance products³. Three important principles are highlighted in the Bill, viz.

- Good lending practice, which includes eliminating “red lining”, transparent communication, professional and honest loan processing
- Responsible lending
- Investment decisions directed by business necessity

This Bill is in conjunction with the Home Loan and Mortgage Disclosure Act (“HAMDA”), the purpose of which is to ensure fair lending practices, provide information on home loans, establish an office of disclosure and support legislation opposing red-lining. HAMDA does not penalise on the grounds of performance but rather on non-disclosure.

The CRA legislation has met with significant opposition from various financial quarters and while it may create liquidity in the lower income housing market, it is not a panacea. The housing context within South Africa needs to be addressed in a holistic manner to enable a healthy lending environment.

³ Morgan Pillay, National Housing Finance Corporation

National Homebuilders Registration Council

All new houses, including those that are entirely subsidy funded must be registered with the NHBRC. This has a marked impact on affordability and therefore on housing delivery in this already under serviced market. The registration fee is approx R2 000, which represents a significant portion of the cost of erecting a basic dwelling.

In 2002, regulations concerning housing consumer protection measures were passed, specifically to provide for the limitations on the amount payable from the Fund that was established in terms of the Act in 1999. The fund was set up to assist consumers where homebuilders failed to meet their obligations.

The NHBRC currently has 5 670 homebuilders and a significantly low percentage of default. The percentage of de-registered homebuilders has decreased from 5.9% in 1998 to 0.2% in 2002, indicating a comfortable level of adherence to quality standards. What is of concern is that a large number of builders who joined the NHBRC at the time of its establishment are no longer there.

The Housing Amendment Act No 4 of 2001

The Act, which amended Housing Act 107 of 1997, effectively transfers the powers, duties, rights and obligations of the Provincial Housing Development Boards to the MEC responsible for Housing and empowers the Minister to determine procurement policy in respect of housing development. It puts in place regulator measures to restrict the sale or alienation of state subsidised housing; amends the Housing Consumers Protection Measures Act of 1998 by substituting references to PHDB with reference to the MEC, and makes the Housing Code binding on all spheres of government. The Act also requires the Minister to make public all institutions mandated to implement housing policy

The Act ensures compliance with Constitutional requirements, and as abenefit, is seen to facilitate acceleration of delivery of incremental housing, social housing, special needs housing, hostel upgrading and conversion. .

The efficacy of this as a speedy delivery mechanism is perceived to be unrealistic - capacity for delivery by the Provinces is questionable as is the ability to control the funds allocated for procurement. History has shown that while developer driven social housing programmes have not been ideal, state delivery has tended to be less than optimal.

Disestablishment of South African Housing Trust Limited Act

This Act intends to disestablish the company from the 1 April 2002 (effective date) and transfer all its rights and assets to the National Housing Finance Corporation, while all obligations and liabilities will vest in the government as national state debt. The government must meet these obligations and liabilities on the dates stipulated for compliance.

Education Initiatives

The Wharton School and Wits P&DM Joint Housing Finance Training course was introduced as an initiative to “extend housing finance downmarket”. Launched at the beginning of 2001, the Faculty of Public and Development Management at the University of the Witwatersrand has been facilitating the development of a South African housing finance training programme with the International Housing Finance Programme at the Wharton School in Philadelphia. With a slightly different focus from other education programmes in this sector, it is aimed at executives in the housing related public sector and addresses issues arising in the provision of housing finance to lower income people in South Africa. It also addresses the patent lack of expertise and knowledge that exists in the non-financial sector.

The Department of National Housing has commenced the process of engagement on beneficiary and borrower education including all housing related aspects of HIV and Aids.

Rental issues

The Rental Housing Act, 1999 defines the responsibility of government in respect of rental housing property, creates mechanisms to promote the provision of rental housing property and to ensure the proper functioning of the rental housing market. It also seeks to lay down general principles governing conflict resolution in the rental housing sector and to provide facilitation of sound relationships between tenants and landlords by laying down general requirements relating to leases. It fails, however, to create any incentives for new rental housing delivery.

On a more general basis, government continues to seek to reduce its role in the ownership of rental stock, through continuing its policy of disposing of all existing state owned rental units. This will enable the government, and particularly local government, to refocus financial and human resources. However, an appropriate methodology for the effective transfer of rental stock that can be adapted to particular provincial and local needs must be developed.

Discussions are underway to enable MIIU involvement in housing and not only in infrastructure. Government currently has a large non-performing housing book, which creates huge fiscal drain. MIIU involvement and the potential to shift the housing assets from the government book will release significant funds that can be used for other purposes.

Urban Regeneration

Urban regeneration initiatives are intended to create sustainable communities with appropriate and affordable housing in safe and secure environments where there is infrastructure, local economic development and amenities.

An example is the Alexandra redevelopment project, a long-term special presidential project that has seen the commitment of R200 million by the Gauteng government over a three-year period. The project is aimed at fundamentally improving the living conditions of people within the area, and through this, upgrading the potential in the area by:

- Substantially reducing levels of unemployment
- Creating a healthy and clean living environment
- Providing affordable and sustainable social and engineering services
- Reducing levels of crime and violence
- Upgrading existing housing environments
- Creating new affordable housing opportunities⁴

Savings Mobilisation

There are indications that beneficiary contributions in the form of savings are having a positive effect on the market. Savings by housing consumers are increasing and there are 351 000 members belong to savings schemes registered by smaller banks⁵.

The focus of savings is to ensure that families do not depend entirely on government to access housing and are encouraged to accept personal responsibility. Because subsidy and savings can be linked, the savings initiative offers an opportunity to subsidy beneficiaries to maximise the effect of the subsidy.

The subsidy linked to savings programme is currently led by Nurcha. There are, however, some refinements required to the programme, specifically with the introduction of what is known as the “R2479 scheme” in which home loan recipients can supplement their home subsidy. As at the end of 2002, Nurcha had registered approximately 40 000 savers, both rural and urban, most of whom are based in Gauteng and Kwazulu-Natal.

Through the Nurcha National Savings Programme it is intended to assist qualifying savers to be prioritised for housing subsidies, to negotiate discount prices for building materials and with contractors and developers, to ensure value for money.

⁵ Jill Strelitz, Executive Director, Nurcha

The savings linked subsidy has been introduced without any transitional arrangements to ensure that delivery momentum on subsidised housing is sustained. Given the need for sustainable delivery, various provincial housing departments are finding creative solutions so that they can avoid the savings linked requirement. Moreover, as yet, there is no institutional capacity and associated operational plan for mobilising savers and ensuring that their savings are deployed in subsidised housing programmes.⁶

Housing Finance Resource Programme

An initiative established by US Aid at the beginning of 2001 to strategically fund various types of technical assistance and grant support to organisations mandated to make housing finance more accessible and affordable to lower income households. It has been a very effective initiative, and through its assistance, many organisations have been able to make impacts on both policy and practice in housing and housing finance in South Africa.

Home Loan Guarantee Company (HLGC) HIV and Aids Initiative

The HLGC has initiated a guarantee programme specifically to cover defaults arising from HIV and Aids related illness for credit-linked housing. In terms of the programme, housing instalments or outstanding balance on a housing loan will be paid by the HLGC to the lender where the default is a direct result of HIV or Aids related illness and where the borrower participates in an appropriate treatment programme. The HLGC is partnered by Right to Care, which will facilitate the medical care to the affected people. It is intended through this initiative, to facilitate access to housing finance, irrespective of the borrower's HIV status and to allow borrowers to remain in their homes, while ensuring that lenders are not placed at risk or loss, and in so doing, will alleviate the growing problem of child headed households.

Adjustment to Quantum of Housing Subsidies

Recent revision to the subsidy scales is part of the policy initiative to enhance the quality of, and expedite, delivery in the affordable housing market. Government's intention is to enhance the quality of subsidy and rental / social housing delivery. There are further options being introduced for high density delivery. An expected result of the increased subsidy is to persuade established contractors back into the lower income market.⁷

Linking subsidy to savings in an attempt to leverage the impact of savings for each individual is a sound policy but its implementation is fraught with difficulty, primarily because of the absence of an implementation plan and policy. The programme is also intended to encourage financial institutions to provide loans to borrowers who are not formally employed but have collateral in the form of savings.

⁶ Sankie Mthembi-Mahanyele, Minister of National Housing

⁷ Sankie Mthembi-Mahanyele, Minister of National Housing

Subsidy allocations to Provinces for 2000/2001 and 2001/2002 were R2.9 billion and R3.2 billion respectively, bringing the subsidy allocation total from 1994 to 2002 to R16.7 billion.

Furthermore, subsidy policy links to “sweat equity”, a term for which there is no formal definition and the measurement of which has not as yet been determined.

Current experience is that the administration of the subsidy programme is problematic and exacerbated by the changes to the quantum. Developments for which institutional subsidies were allocated but not yet paid are, in practice, not able to access the increased subsidy and in some instances, subsidies allocated but not yet used have been withdrawn. This affects the viability of projects already in planning.

The subsidy programme, even in its adjusted form, has not addressed the “housing gap” for the middle lower income market, who are able to access more than just subsidy housing but not formal mortgage loans.

The subsidy revisions were as follows

| INCOME CATEGORY | NEW SUBSIDY |
|-------------------------------|--------------------|
| R0 – R1 500 | R20 300 |
| R1 501 – R2 500 | R12 700 |
| R2 501 – R3 500 | R7 000 |
| Old aged, disabled & indigent | R22 800 |
| Consolidation | R10 900 |
| Institutional subsidies | R20 300 |

Incremental Housing/ Peoples Housing Process (PHP)

The People's Housing Process, while not a new initiative, has been given renewed energy through the incremental housing delivery approach mooted and introduced by Gauteng Department of Housing and is being supported and replicated. This approach is intended to ensure the rapid release of land for housing development, the provision of essential services to informal settlements; promote security of tenure and encourage savings programmes. The incremental approach relies on a two-pronged approach: government making available land and tenure with water and sanitation while the beneficiaries provides their own housing on the land provided.

In support of the programme, Housing Support Centres will need to be established to enhance delivery within the PHP. The number of PHP projects had increased significantly in some Provinces, indicating the viability of “sweat equity” programmes. In this way, borrowers participate in both investment and construction.

3.1.4 New policy constraints

Current Housing Policy

For the reasons set out in 3.1.2 above, the housing policy in its current form and encompassing its existing strategy, is in itself one of the primary constraints.

Usury Act

The Usury Act in its current form is no longer appropriate opposite delivery in terms of the current housing policy. The reasons for this are, inter alia:

- Changes to the housing policy have not effectively been accommodated in the Usury Act, The Home Loan and Mortgage Disclosure Act (“HAMDA”) has not been implemented and the amendments made to the Usury Act are not complete.
- The capping of usury rates is contentious as lenders regard this as inhibiting them in housing delivery. Exemptions under the Act are limited to R10,000.00 which is inappropriate in a housing context.
- The Act is extremely complex and in need of revision.

Prevention of Illegal Eviction from Land and Unlawful of Land Act (PIE)

PIE was intended to provide procedures for the eviction of squatters and for instances of land invasions, particularly in the rural context. A High Court judgement handed down in 2002, however, applied the principles to urban areas where tenants and bond holders had unlawful possession because of their own non-compliance. This has far-reaching effects for the residential market in general and the lower income market in particular. Lenders regard the risk as too high, especially in social housing, as evictions for non-payment become almost impossible.

While the National Housing Department has prepared an amendment to PIE to address this issue, its authority to do so is under discussion as the administration of the Act does not fall within the ambit of that Department.

Land Invasions

Historically, the Department of National Housing has acted against land invasions. However, in a recent case, the government decided to appeal a judgement ordering it to remove 40 000 illegal squatters from an East Rand farm. The court had ordered the government to present it with a comprehensive plan detailing how it would remove the people from the land and house them elsewhere in accordance with the Constitution and existing legislation. Government’s action in appealing the decision has been negatively perceived. It is seen as prevarication in its position on “land grabs”.

Alienation of Land Act

Instalment sales for lower income housing are governed by the Alienation of Land Act. The design of the Act when it was written was to allow for instalment sales on an individual basis. Instalment sales at scale are not adequately provided for in this Act. The consumer protection elements, while appropriate for individual middle to upper income residential sales, are not appropriate to social housing or mass market. The Act in its current form is a constraint to delivery at scale.

Tax

Value Added Tax (VAT) in its current application is a significant constraint to the delivery of social housing, particularly with regard to rental stock. Input tax paid cannot be claimed by a developer which means that it needs to find it from other source.

The requirements for continued tax exemptions for institutions within the housing arena are onerous. Many organisations that are involved in housing delivery in the lower income market rely on their tax exempt status to remain financially viable. The new tax exemption requirements are not compatible with housing policy as they apply only to organisations serving the poor and needy and there are significant restrictions on trading activities. The housing policy is much broader in its scope.

Building Standards

The building standards required by government in terms of the NHBRC requirements represent a constraint in terms of delivery particularly with regard to housing reliant entirely on subsidies. High housing standards, while admirable, fly in the face of fiscal realities in the market.

3.1.5 Linkages between policies and initiatives

The Linkages between policies and initiatives are shown in the following matrices. The first matrix is a consolidation of the two periods, i.e. 1994 to 1998 and 1998 to 2000. The second refers to the period 2000 to 2002. policies.

New policy constraints identified are not necessarily addressed by any policy and the matrix will indicate this.

1994-1998 & 1998 –2000

| Policy/Program/ Legislation/ Administrative | HIV/AIDS | Policy Framework | Institutional Framework | Finance | Property Rights | Tax / Subsidy Policy | Land & Infrastructure Provision | Regulations | Housing Supply Indicators |
|--|----------|---------------------|----------------------------|---------|--------------------|-------------------------|---------------------------------------|-------------|---------------------------------|
| National Housing Forum | | X | X | X | X | X | X | X | X |
| White Paper on Housing | | X | X | X | X | X | X | X | X |
| Housing Implementation Policy | | X | X | X | X | X | X | X | |
| Housing Act of 1998 | | X | X | | X | X | X | X | |
| Housing Boards | | | X | | X | X | X | | |
| Housing Subsidy Scheme | | | | X | X | X | X | | |
| People's Housing Partnership Trusts | | | | X | X | | | | X |
| Discount Benefit Scheme | | | | | X | X | | | |
| Servcon Housing Solutions | | | | X | X | | | | |
| National Home Builders' Registration Council | | | | X | | | | | X |
| National Housing Finance Corporation | | | | X | | | | | |
| Masakhane Campaign | | | | X | | | | | |
| Social Housing Foundation | | | | | X | | | | |
| Mortgage Indemnity Fund | | | | X | | | | | |
| National Urban Reconstruction & Housing Agency | | | | X | | | | | |
| Hostel Policy | | | | | X | | | | |
| Illegal Eviction / Unlawful Occupation Bill | | | | | X | | | | |
| Housing Finance Bill | | | | X | | | | | |
| Landlord/Tenant Bill | | | | | X | | | | |
| Thubelisha Homes | | X | X | X | X | X | | | |
| <i>Housing Consumer's Protection Measures Act 95 of 1998</i> | | X | X | | | X | X | X | X |
| <i>Gateway</i> | | | X | X | X | X | | | X |
| <i>Housing Act of 1998</i> | | X | X | X | X | X | X | X | X |
| <i>Provincial Housing Development Boards</i> | | X | | | | X | X | X | X |
| <i>Housing Subsidy Scheme</i> | | X | X | X | X | X | X | | |
| <i>Mortgage Loan Disclosure Act</i> | | | X | | | | | | |
| <i>Job Summit Process</i> | | X | X | X | X | X | X | | X |
| <i>Legislation on RDP housing sales</i> | | | | | X | X | | X | |
| <i>SHIDEF</i> | | | X | X | X | X | X | | X |
| <i>Savings-linked credit</i> | | | X | | X | | | | |

2000 - 2002

| Policy/Program/ Legislation/ Administrative | HIV/AIDS | Policy Framework | Institutional Framework | Finance | Property Rights | Tax / Subsidy Policy | Land & Infrastructure Provision | Regulations | Housing Supply Industry |
|--|----------|---------------------|----------------------------|---------|--------------------|-------------------------|---------------------------------------|-------------|-------------------------------|
| Housing Amendment Act 4 of 2001 | | X | X | X | X | X | X | X | X |
| National Homebuilders Registration Council | | | | X | | | | X | X |
| Home Loan and Mortgage Disclosures Act 63 of 2000 | | | X | X | | | | X | |
| Community Reinvestment (Housing) Bill of 2002 | | X | X | X | | | | | |
| Disestablishment of South African Housing Trust Limited Bill of 2002 | | | X | | | | | | |
| Wits P & DM/ Wharton School Education Initiative | | | | X | | | | | |
| Judgement in terms of PIE Act X19 of 1998 | | | | X | X | X | X | | |
| Savings Mobilisation - Nurcha | | X | X | X | | X | | | |
| Urban Regeneration Programmes | | | X | X | | X | X | | X |
| Adjustment to Quantum of Housing Subsidies | | X | | X | | X | | | |
| HIV/Aids Initiatives | X | X | | | X | | | | |
| Incremental Housing Programmes | | | X | X | X | X | X | | X |
| Marulelo Housing Association | | | X | X | X | | | | |
| <i>* Current housing policy</i> | | X | X | X | X | X | X | X | X |
| <i>Usury Act</i> | | X | X | X | X | X | X | | |
| <i>PIE</i> | | X | | X | X | | X | | |
| <i>Land Invasions</i> | | X | | X | X | | X | | |
| <i>Alienation of Lands Acts</i> | | X | | X | X | X | X | | |
| <i>Tax</i> | | X | X | X | X | X | X | | |
| <i>Building Standards</i> | | X | | X | X | X | | X | |

** Italics indicate new constraints.*

4. Assessing and Projecting Progress

4.1 Housing - The constraints mitigation index

| | 2000 actual | 2002 project. | 2002 actual | Priority | Projected Weighted shortfall (2002) | Actual weighted shortfall (2002) |
|-----------------------------|----------------|------------------|----------------|----------|--|---|
| Existing constraints | | | | | | |
| Policy framework | 3.3 | 3.25 | 3.2 | 4 | 3 | 3.2 |
| Institutional framework | 3.31 | 3.27 | 2.92 | 4 | 2.92 | 4.32 |
| Finance | 3.37 | 3.5 | 3.45 | 3 | -1.5 | -1.35 |
| Property rights | 3.31 | 3.4 | 3.48 | 4 | 2.4 | 2.08 |
| Tax/subsidy policy | 3.25 | 3 | 3.1 | 4 | 4 | 3.6 |
| Land/infrastr provision | 3.37 | 3.37 | 2.92 | 4 | 2.52 | 4.32 |
| Regulations | 3 | 3.06 | 3.1 | 4 | 3.76 | 3.6 |
| Housing supply industry | 2.9 | 3 | 3.05 | 2 | -2 | -2.1 |
| HIV/Aids | 1.3 | 2.0 | 1.87 | 4 | 8 | 8.52 |
| 2002 ave | | 3.09 | 3.01 | 3.66 | 2.56 | 2.91 |
| | | | | | | |

By and large, the policy has achieved delivery to the extent it is able in its current form. The framework is robust and while the policy is lacking, various issues have been addressed. Adjustments are needed to the policy, and specific attention to be given to fundamental problems such as HIV and Aids.

5. Conclusion

This section of the report has examined the principal constraints to the delivery of housing in South Africa, the initiatives that have been undertaken by national government to address these constraints and the progress that has been made towards mitigating them. Some of the initiatives, however, have not been undertaken by government but by the private sector and these have been included. In spite of the constraints to delivery – many of which are policy driven, there has been housing delivery and the initiatives in place, while not always as effective as envisaged, have had results. The involvement of the NGO and private sectors has driven delivery to the extent that it has occurred.

Institutional effectiveness, financial innovation and efficiency of subsidy policies have not been as robust as expected. In spite of this, much has been achieved. Of great importance is the identification of the need for a revised, mature policy with enabling legislation.

The fundamental problem areas remain unresolved: the “gap” in the housing market, i.e. the sector needing housing below R75 000, is still underserved; the effect of HIV and Aids on housing decisions is not being seriously

considered by government – there are no policies in place to deal with HIV and Aids in housing; the subsidy system is suffering huge administrative difficulties, exacerbated by piecemeal amendments.

The institutional initiatives and current policy were intended to give effect to the policy directions established in 1994 and 1998. The efficacy of these initiatives in a changed policy environment will clearly need to be measured. Given the difference in environment from 1994 until the present time and the need for a new policy, the constraints have not been projected to 2004. It is suggested that a new measurement base is decided upon to determine efficacy of housing policy going forward.

ANNEXURE 1

Persons Interviewed / Legislation / Policy Documents/ Programmes

Persons interviewed

1. Ahmed Vawda - National Department of Housing
2. Louis van der Walt – National Department of Housing
3. Richard Thatcher – National Department of Housing
4. Cas Coovadia – Banking Council
5. Robert Mann – BESG
6. Ethel Rakwadi – USN
7. Crystelle Byers – IIEC – eco-housing
8. Monty Narsoo
9. Cedric de Beer – Nurcha
10. European Union representative on Cato Manor
11. Matthew Nell/ Ros Gordon
12. Rudolph Willemse – Hofmeyr Attorneys

Legislation/ Policy Documents

1. Housing Amendment Act 4 of 2001
2. Amendments to the Housing Consumers Protection Measures Act 95 of 1998 and the regulations that were passed in 2002
3. The regulations under preparation which will amend the Home Loan and Mortgage Disclosure Act 63 of 2000
4. The Disestablishment of South African Housing Trust Limited Bill of 2002
5. Community Reinvestment (Housing) Bill of 2002
6. The Housing Code, particularly with regard to the Subsidy implementation manual and policy documents published with it.

7. The Prevention of Illegal Eviction and Unlawful Occupation of Land Act 19 of 1998, (PIE) insofar as it refers to the current matter of Ndlovu v Ngcobo, which may have a significant effect on the housing market in South Africa

Programmes

1. HFRP annual report of housing technical assistance projects
2. People's Housing Process - effect of disengagement by USAID
3. Urban Sector Network hostel report
4. Home Loan Guarantee Company HIV/Aids programme
5. Johannesburg Housing Company Brickfields programme
6. Alexander Renewal Programme – technical support aspects
7. NURCHA Savings Programme
8. USAID sponsored programmes on HIV/Aids:
 - Aids impact on Housing finance demand
 - Pilot projects through USN on community based orphan care
 - Servcon for community based home care

ANNEXURE 2

Housing: 2002 Projections

Policy Framework

Projected 2002

| Criteria | Score | Commentary |
|--------------------------|-------|--|
| Policy impact | 3.5 | Integrated approach to housing will have begun, utilizing cooperation between ministries – policy amendments will be in process to reflect HIV/Aids situation. Introduction of environmental issues as policy. |
| Resources | 3 | Increased skills and capacity particularly within National Department of Housing, cascading to lower levels of government. This will facilitate more efficient implementation of housing policy. |
| Institutional mechanisms | 3,5 | Institutional shaping matured, organizations streamlined. Enhanced skills to facilitate delivery. |
| Stakeholder acceptance | 3 | Greater ability and efficiency in implementation will improve acceptability by private sector. |
| | 3.25 | |

Actual 2002

| Criteria | Score | Commentary |
|--------------------------|-------|--|
| Policy impact | 3.8 | Existing framework has served its purpose. New policy direction required for the future. Some focus on HIV and Aids situation and environmental issues being taken into consideration. |
| Resources | 3.1 | Increased capacity in National Department of Housing, however, still skills shortage. Improvement in some provinces |
| Institutional mechanisms | 3.0 | Institutional changes in an attempt to streamline activities, but not always successful. |
| Stakeholder acceptance | 3.0 | Private sector working within constraints. Housing delivery more robust, particularly in social housing sector. |
| | 3.2 | |

Institutional Framework

2002 Projections

| Criteria | Score | Commentary |
|--------------------------|-------|---|
| Policy impact | 3 | Institutional effectiveness improving. Improved cooperation between ministries and coordination of efforts. Increased implementation ability. |
| Resources | 3.5 | Government resourcing improved. Institutional skills streamlined. |
| Institutional mechanisms | 3 | Serious set back if Gateway status changed, especially if it is collapsed into NHFC. Job Summit institutions becoming effective. |
| Stakeholder acceptance | 3.6 | Slight improvement |
| | 3.27 | |

2002 Actual

| Criteria | Score | Commentary |
|--------------------------|-------|--|
| Policy impact | 2.7 | Merged institutions, but not always to greater effectiveness. Insufficient co-ordination between ministries. Better co-operation between National and provincial levels. Skills remain problematic |
| Resources | 3 | Improved resourcing overall. Efficiency levels lacking in some government and government supported institutions. Sufficient financial resources |
| Institutional mechanisms | 3 | Subsidiaries and associated organizations “merged” into NHFC with varying degrees of success. Efficiency issues hamper delivery. Some institutions better than others |
| Stakeholder acceptance | 3 | Efficiency levels affect acceptance. Some therefore far more accepted than others |
| | 2.92 | |

Financial Framework

2002 Projections

| Criteria | Score | Commentary |
|--------------------------|-------|--|
| Policy impact | 3 | Mortgage disclosure bill will have a positive impact. Changes, however, to subsidy policy can have negative impact. |
| Resources | 3.5 | Government will have made changes in resourcing and skills. Financial capacity for subsidies problematic. Private sector funding improved because new mechanisms in place. |
| Institutional mechanisms | 3.5 | Private sector initiatives slowly replacing the need for institutional mechanisms. Changes in institutional mechanisms no necessarily favoring delivery. |
| Stakeholder acceptance | 3.5 | Greater stakeholder acceptance across board. |
| | 3.5 | |

2002 Actual

| Criteria | Score | Commentary |
|--------------------------|-------|--|
| Policy impact | 3.4 | Private sector participation sought in innovative ways. Subsidy changes had positive impact. Policy to link savings to subsidy. Narrowed lending market. Initiatives in place to improve social housing funding. Policy shift toward social housing. CRA legislation being drafted, mortgage disclosure bill, no discernible impact as yet |
| Resources | 3.6 | Subsidy increased, and available particularly for social housing. Skills still need attention. Provincial resources improved. Private sector funding available for mortgage loans. NHFC buying in loans as form of securitization. Effective in improving finance availability and liquidity of smaller lenders. |
| Institutional mechanisms | 3.5 | Gateway demise. NHFC buying in loans. Mechanism appropriate for the current policy. Job Summit process still not fully effective. Small lenders merged with Banks, remaining small lenders effective. Government participation questionable |
| Stakeholder acceptance | 3.3 | Greater financial discipline. Pending CRA legislation impacting on bank mindset. Increase in lending rate has had impact on affordability. Economic climate generally, increased retrenchment has had impact on affordability and therefore defaults. Aids risk an issue |
| | 3.45 | |

Property Rights

2002 Projections

| Criteria | Score | Commentary |
|--------------------------|-------|--|
| Policy impact | 4 | Greater effectiveness in consumer protection. Rural policy having effect. Rental and rent-to-buy options More utilized. |
| Resources | 2.5 | Some resources applied, particularly to rural situation. |
| Institutional mechanisms | 3.5 | HIDF, in independent, will be successful. If remains under NHFC umbrella, less so. Job Summit will begin to operate. Still no institutions specifically concerned with rural issues. |
| Stakeholder acceptance | 3.75 | Greater acceptance of housing institutions from private sector investors – lenders still problematic. Tenure options well accepted. |
| | 3.4 | |

2002 Actual

| Criteria | Score | Commentary |
|--------------------------|-------|--|
| Policy impact | 3.5 | Full consumer protection in place. Tenure options available, with protections in place. State housing stock not yet solved |
| Resources | 3 | More resources being applied, in all sectors, including state housing stock, rural property rights, rental and social housing |
| Institutional mechanisms | 3.6 | Greater emphasis on housing associations. Umbrella body formed. NHFC fulfilling function of HIDF. Banks cautiously entering funding agreements with housing associations. Nurcha new mechanism to underwrite lenders |
| Stakeholder acceptance | 3.8 | Much greater acceptance of housing associations. Banks slowly starting to fund. Some political issues around evictions in some areas |
| | 3.48 | |

Tax/Subsidy Policy

2002 Projections

| Criteria | Score | Commentary |
|--------------------------|-------|--|
| Policy impact | 2 | Subsidy policy in transition, particularly with regard to grant mechanisms. |
| Resources | 3.5 | Still financial constraints. Changes because of changes in policy. Skills need developing. |
| Institutional mechanisms | 3.5 | Attempted proactive delivery. Still require skills, particularly if methodology changes. |
| Stakeholder acceptance | 3 | If delivery impaired because of changes in policy, may have negative impact on stakeholder acceptance. |
| | 3 | |

2002 actual

| Criteria | Score | Commentary |
|--------------------------|-------|--|
| Policy impact | 3 | Increased subsidies. National proposal for funding of housing associations proposes tax incentives. Subsidy policy still not optimal, but working. |
| Resources | 3 | Fiscal constraints given increased subsidy amounts. Some provinces better skilled than others. |
| Institutional mechanisms | 3.2 | Delivery skills still not optimal. With exception, primarily reactive and not proactive, driven by provinces |
| Stakeholder acceptance | 3.2 | Administration requires improvement. Limited subsidies available. Given increased amount, developer improved acceptance |
| | 3.1 | |

Land and Infrastructure Provision

2002 Projections

| Criteria | Score | Commentary |
|--------------------------|-------|--|
| Policy impact | 3.5 | Service delivery policy advanced. |
| Resources | 3.5 | If change in subsidy policy, greater emphasis will be placed on resources available for land and infrastructure. |
| Institutional mechanisms | 3 | Capacity improving within existing structures. |
| Stakeholder acceptance | 3.5 | Communication exercise to achieve greater acceptance of practice among other stakeholders. |
| | 3.37 | |

2002 actual

| Criteria | Score | Commentary |
|--------------------------|-------|--|
| Policy impact | 3.2 | Focus on provision of land and services advanced. Service delivery policy primarily in place. Land invasions taken seriously |
| Resources | 3 | Land and services given priority. Resources made available, but land that could be used for housing still not readily available. |
| Institutional mechanisms | 2.5 | Initiative for MIU to participate in housing with regard to disposing of rental housing stock. Capacity improving but still insufficient |
| Stakeholder acceptance | 3 | Still some resistance, but improved. Government attitude to illegal land invasions improving acceptance |
| | 2.92 | |

Housing Supply Industry

2002 Projections

| Criteria | Score | Commentary |
|--------------------------|-------|--|
| Policy impact | 3 | NHBRC on non-mortgage houses discernible. Greater adherence to standards. Site and service policy in process of implementation. Alternative building methodologies need to be considered. Upgrading in progress. |
| Resources | 3 | Core of affordable housing developers delivering. Resourcing required for site and service. |
| Institutional mechanisms | 3 | NHBRC effective. Institutional mechanisms in process for delivery of site and service. |
| Stakeholder acceptance | 3 | Site and service being tested – probably not yet fully accepted. Need to be educated with regard to building alternatives. Acceptance of upgrading initiatives. |
| | 3 | |

2002 Actual

| Criteria | Score | Commentary |
|--------------------------|-------|--|
| Policy impact | 3.2 | Minimum standards having impact on delivery and affordability. Subsidy only houses require registration. Impacts on cost, supposedly covered by higher subsidy. Has had positive impact on quality |
| Resources | 3 | Skills level of emerging contractors not always optimal. Affordable housing product remains difficult for lower end of market. Increased cost of building material supplies and land exacerbates situation |
| Institutional mechanisms | 3 | NHBRC remains effective, in spite of institutional changes. Site and service mechanisms still required |
| Stakeholder acceptance | 3 | Affordability concept recognized, but less product available. |
| | 3.05 | |

Regulations

2002 Projections

| Criteria | Score | Commentary |
|--------------------------|-------|---|
| Policy impact | 3.25 | Zoning being attended to. Standards acceptable. |
| Resources | 2.5 | Some available but still insufficient. |
| Institutional mechanisms | 3.5 | NHBRC functioning well. |
| Stakeholder acceptance | 3 | Insufficient communication. Impact of unicity and zoning issues not yet measured. |
| | 3.06 | |

2002 Actual

| Criteria | Score | Commentary |
|--------------------------|-------|---|
| Policy impact | 3 | Minimum standards even for subsidy only houses, NHBRC registration required in all instances. Part of Code. |
| Resources | 3 | Limited resources available. Subsidy increased to alleviate to certain extent. |
| Institutional mechanisms | 3.4 | NHBRC functioning. New legislation with regard to funds being drafted |
| Stakeholder acceptance | 3 | NHBRC accepted as fact of life. |
| | 3.1 | |

HIV/ Aids

2002 Projections

| Criteria | Score | Commentary |
|--------------------------|-------|--|
| Policy impact | 1.5 | HIV/Aids Housing Policy in process. |
| Resources | 1.5 | Grant and aid funding available. No Government resources in place. |
| Institutional mechanisms | 2 | Institutional mechanisms in process |
| Stakeholder acceptance | 3 | Wide acceptance for need of HIV/Aid housing policy. |
| | 2.00 | |

2002 Actual

| Criteria | Score | Commentary |
|--------------------------|-------|--|
| Policy impact | 1.5 | Housing consumer education including Aids issues being formulated. No HIV/Aids housing policy as yet |
| Resources | 2 | Resources from NGO and private sector becoming available. Government not involved |
| Institutional mechanisms | 2 | NGO's and private sector leading process. |
| Stakeholder acceptance | 2 | Overall awareness of magnitude of problem. Government stance widely regarded as problematic. Broad based acknowledgment for need for relevant housing policy |
| | 1.87 | |